

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Edward Lee Jones, Sr.,

10 Plaintiff,

11 v.

12 David Shinn, et al.,

13 Defendants.
14

No. CV-22-00277-PHX-MTL (JZB)

ORDER

15 In this prisoner civil rights case, Plaintiff appeals from the Magistrate Judge's
16 decision denying his motion to extend discovery deadlines. Under Rule 72(a), Fed. R. Civ.
17 P., "[t]he district judge in the case must consider timely objections and modify or set aside
18 any part of the order that is clearly erroneous or contrary to law."

19 The Magistrate Judge Order (Doc. 41) summarizes the procedural history of the
20 case. Relevant here, two months after the close of discovery, and after Defendant filed a
21 summary judgment motion, Plaintiff moved to extend all discovery deadlines. "Between
22 November 8, 2022 and June 28, 2023, the parties filed only a single notice of
23 discovery – Defendants' Notice of Deposition of Plaintiff on February 10, 2023." (*Id.* at
24 2.) Plaintiff stated that he recently had surgery on his hand that impaired his ability to work
25 on discovery. The extension was necessary to obtain medical records for his case.

26 Applying the good cause and excusable neglect standards, the Magistrate Judge
27 denied Plaintiff's motion. The Magistrate Judge concluded that the Defendants would be
28 prejudiced because they had already filed a summary judgment motion and Plaintiff

1 “allowed the discovery deadlines in this action [to expire] without objection.” (*Id.* at 3.)
2 The Magistrate Judge observed that the docket demonstrates no record of Plaintiff’s
3 discovery activity whatsoever during the discovery period. Moreover, the Magistrate Judge
4 recognized Plaintiff as an experienced and frequent pro-per litigator who “has
5 demonstrated in other actions before this Court that he *could* submit filings to the Court in
6 the time periods leading up to the expired deadlines.” (*Id.* at 2 (emphasis in original).)

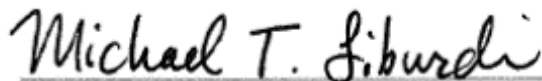
7 In his appeal, Plaintiff argues that he exchanged written discovery during the
8 discovery period but he simply did not file discovery notices on the docket. He provides
9 additional detail about his hand surgery and its impact on his ability to write.

10 The Court finds that the Magistrate Judge Order is not clearly erroneous or contrary
11 to law. Plaintiff did not seek a discovery extension during the discovery period. Defendants
12 relied on the close of discovery and filed their motion for summary judgment. As an
13 experienced pro-per litigator in the field of prisoner civil rights, Plaintiff knows, or should
14 know, the importance of seeking discovery extensions during the active discovery period.
15 Asking to reopen discovery months after it has closed is not a sign of diligence. Reopening
16 discovery now, moreover, would undermine the Magistrate Judge’s scheduling order and
17 the Court’s objective in managing cases efficiently to a conclusion. It would prejudice
18 Defendants because the effort that they expended on the pending summary judgment
19 motion would be wasted.

20 **IT IS ORDERED** that Plaintiff’s appeal (Doc. 43) is **denied**.

21 **IT IS FURTHER ORDERED** that the Magistrate Judge Order (Doc. 41) is
22 **affirmed**.

23 Dated this 17th day of November 2023.

24
25 

26 Michael T. Liburdi
27 United States District Judge
28